PTO/SB/33 (07-05)

PRE-APPEAL BRIEF REQUEST FOR REVIEW

Docket Number (Optional)
020375-029210US

I hereby certify that this correspondence is being filed via EFS-Web with the United States Patent and Trademark Office on February 18, 2010.

TOWNSEND and TOWNSEND and CREW LLP

By: /Sherry Soares/
Sherry Soares

Application Number	Filed
10/611,656	June 30, 2003

First Named Inventor
Philip T. Mellinger, et al.

Art Unit	Examiner
2431	Syed Zia

Applicant requests review of the final rejection in the above-identified application. No amendments are being filed with this request.

This request is being filed with a notice of appeal.

The review is requested for the reason(s) stated on the attached sheet(s).
Note: No more than five (5) pages may be provided.

I am the

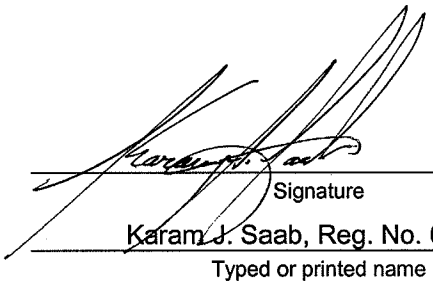
☐ applicant/inventor.

☐ assignee of record of the entire interest.
See 37 CFR 3.71. Statement under 37 CFR 3.73(b) is enclosed.
(Form PTO/SB/96)

☒ attorney or agent of record.
Registration number 64,190.

☐ attorney or agent acting under 37 CFR 1.34.

Registration number if acting under 37 CFR 1.34. _____



Signature

Karam J. Saab, Reg. No. 64,190
Typed or printed name

303-571-4000
Telephone number

2/18/2010
Date

NOTE: Signatures of all the inventors or assignees of record of the entire interest or their representative(s) are required.
Submit multiple forms if more than one signature is required, see below*.

☒ *Total of 1 form is submitted.

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TOWNSEND and TOWNSEND and CREW LLP

By: /Sherry Soares/
Sherry Soares

PATENT
Attorney Docket No.: 020375-029210US

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of:

Philip T. Mellinger, et al.

Application No.: 10/611,656

Filed: June 30, 2003

For: METHODS AND SYSTEMS FOR PERFORMING SECURITY RISK ASSESSMENTS OF INTERNET MERCHANT ENTITIES

Customer No.: 20350

Confirmation No.: 1992

Examiner: Syed Zia

Art Unit: 2431

PRE-APPEAL BRIEF REQUEST FOR REVIEW

Mail Stop AF
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Commissioner:

The Applicant requests review of the final rejection mailed August 18, 2009 for the above-identified application. No amendments to the claims are being filed with this request.

This request is being filed with a Notice of Appeal. The review is requested for the reasons stated herein.

Remarks

Claims 1-24 stand rejected under 35 U.S.C. § 102(e) as being anticipated by U.S. Patent Publication No. 2003/0065942 A1 to Lineman et al. ("Lineman").

Rejection Under 35 U.S.C. § 102

The Office Action has again rejected all claims as being anticipated by Lineman. Applicant again respectfully traverses that each and every recitation of the independent claims is taught by Lineman. Claim 1 recites: "*receiving*, at a host computer system including a processor, *from each of a plurality of payment-processing organizations*, a set of security requirements defining protocols for implementing commercial transactions over the shared network using instruments identified with the payment-processing organization." Emphasis added. Independent claim 12 recites: "the security test scheme includes a set of test requirements whose satisfaction by the merchant entity is sufficient to ensure compliance with *a plurality* of sets of security requirements defined by *a plurality* of payment-processing organizations." Emphasis added. Independent claim 21 contains similar recitations. Such recitations are not taught by Lineman.

Lineman is directed to "[a] software program capable of creating and managing security policies on a network . . . ." *Lineman*, Abstract. Lineman is explicit in how its security policies are created:

> The disclosed software enables *a security administrator to create and edit a security policy document* (block 70). To assist in the creation of the security policy document, the disclosed software may include *a Policy Wizard 71, enabling a security administrator to use a library database 72 to construct the security policy document.* Additionally, *a quiz editor 73 may be provided, which allows the administrator to design questions for testing a user's understanding of the security policies in the security policy document.*

Lineman, ¶32, emphasis added. In each instance, *the security policy document of Lineman is in someway created by a security administrator. Id.* In contrast, claim 1 *involves a plurality of security requirements being received* from *multiple* payment-processing organizations. Lineman does not contemplate requirements being *received* from *one or more third-party merchants.*

This feature of the independent claims may be especially beneficial to merchant operators of online stores. It allows the requirements of *multiple* payment-processing organizations to be received at a host computer system, then have a set of test requirements devised based on the requirements received from the one or more payment processing organizations. Therefore, the merchant may comply with requirements sent by *multiple* payment processing organizations by complying with *the set of test requirements*. This is not taught by the systems and methods of Lineman where all of the content of security policy document is created (either directly, or indirectly such as through a "policy wizard") by "a security administrator." *Lineman*, ¶32. Therefore, while Lineman relies on *the security administrator* for its security policy document content, the test requirements of the independent claims are collected from *multiple different payment processing organizations*. Lineman discusses nothing related to such (1) *reception* from (2) *multiple* payment processing organizations.

For at least these reasons, each and every recitation of claims 1, 12 and 21 are not anticipated by the cited reference of Lineman. Therefore, *prima facie* cases of anticipation are not present. Accordingly, Applicant respectfully requests reversal of the §102 rejections of claims 1, 12, and 21. Further, claims 2-11, 13-20, and 22-24 depend, either directly or indirectly, from claims 1, 12 and 21. At least by virtue of their dependence on non-obvious base claims, these claims are likewise non-obvious. Accordingly, Applicant also respectfully requests withdrawal of the §102 rejections of claims 2-11, 13-20, and 22-24.

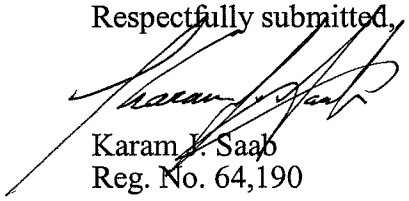
Conclusion

In view of the foregoing, the Applicant believes all claims now pending in this Application are in condition for allowance and an action to that end is respectfully requested.

Further, the Commissioner is hereby authorized to charge any additional fees or credit any overpayment in connection with this paper to Deposit Account No. 20-1430.

If the Examiner believes a telephone conference would expedite prosecution of this application, please telephone the undersigned at 303-571-4000.

Respectfully submitted,



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